

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MATT L. LOPER,

Plaintiff,

v.

COMMONWEALTH OF PENNSYLVANIA,

Defendant.

Case No. 1:19-CV-192

MEMORANDUM ORDER

This action was received by the Clerk of Court on July 2, 2019, and was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

On July 25, 2019, a Report and Recommendation was filed. ECF No. 2. Magistrate Judge Lanzillo screened Plaintiff's complaint and recommended that it be dismissed as legally frivolous in accordance with the requirements of 28 U.S.C. § 1915(e).

The Report and Recommendation was mailed to Plaintiff at his last known address of record and Mr. Loper was advised that he had fourteen days in which to object to the Report and Recommendation. As of today's date, no Objections were filed.

After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 20th day of August, 2019;

IT IS HEREBY ORDERED that Plaintiff's motion for leave to proceed in forma pauperis [ECF No. 1] is granted. The Clerk of Court is directed to file the complaint (which is presently lodged at ECF No. 1-1).

IT IS FURTHER ORDERED that Plaintiff's complaint be dismissed as legally frivolous in accordance with 28 U.S.C. § 1915(e). This dismissal is without prejudice to Mr. Loper's ability to pursue his request for relief (i.e., release from detention) by way of a separate federal habeas corpus petition¹. *See Black v. Moser*, 2018 WL 3239775, at *1 (M.D. Pa. July 3, 2018).

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on July 25, 2019 [ECF No. 2] is adopted as the opinion of the court.

AND, IT IS FURTHER ORDERED that the Clerk of Court is directed to close this case.

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

SUSAN PARADISE BAXTER
United States District Judge

¹ This case is very similar to cases filed by Mr. Loper at 1:19-cv-187 and 1:19-cv-191. Those cases have been dismissed as frivolous for the same reasons as the present case. In the event, Mr. Loper files a petition for writ of habeas corpus he should be aware of the "second or successive petition" standards of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA") which restricts a petitioner's ability to seek habeas relief multiple times.